

State of Utah	REF. NR-97-B-1b	PAGE 1 of 3
DEPARTMENT OF NATURAL RESOURCES	EFFECTIVE DATE 06/28/97	
POLICIES AND PROCEDURES	REVISION DATE	
SUBJECT: On-Call Policy (Addendum to DNR-FLSA Policy)		
Ted Stewart, Executive Director		

I. PURPOSE

To supplement the Department of Natural Resources FLSA Policy in order to address applicability to situations arising from specific and/or unique circumstances.

II. INTRODUCTION

Under the Fair Labor Standards Act, on-call time is not specified as compensable working time. The Supreme Court, however, in two rulings has indicated that "under certain circumstances, on-call or waiting time is compensable".*

Managers should use the following policy in determining whether or not employees are to be paid one hour for every 12 hours they are placed in restrictive time conditions. Because some employees want the opportunity for on-call hours, managers must ensure they offer the on-call designation in a fair and equitable manner. The following policy is used to determine whether an employee should be placed on-call.

III. POLICY

- A. The term on-call or "waiting time" is used to define any hours that are restricted to the extent the employee is not able to use any hours for his/her own personal use after normal working hours.
- B. No employee may designate himself/herself to be on-call. A division director (or designee) is the only individual who can designate, **in writing**, someone to be on-call. The payroll coordinator then needs to be notified so that he/she may indicate any authorized on-call time on the time and attendance system.
- C. The division director's written designation of an employee who is to be on-call must be forwarded to the department Human Resource office to place in the employee's personnel file.

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- D. The division director, when designating who is to be on-call must include the days in which the employee is to be on-call, the schedule of hours the employee is to be on-call, and a paragraph stating that the employee is agreeing to be on-call.
- E. Any employee who is designated to be on-call will be paid for one hour out of 12 hours, or similarly proportionate amount of time, e.g., 1/2 hour out of six hours. This payment shall always constitute straight time.
- F. Any hours actually worked while on-call will be compensated in accordance with the employee's Overtime Election Agreement Form. All exempt employees actually working overtime will always be compensated at straight time.
- G. Those employees who are simply required to leave a number as to where they can be reached or are required to wear a beeper, are not considered to be "on-call" unless there is written authorization or designation as such.
- H. Any employee who is required to remain at a certain place is considered to be in a "waiting to be engaged" situation. In these situations, the employee is automatically placed in an on-call status because his/her use of personal time is limited or restricted. This does not require written authorization.
- I. Any employee who can be disciplined for not responding to call-ins may claim on-call compensation. If the employee is called in to work and does not respond, the on-call status may be removed.
- J. Although DHRM Rules state "Where the nature of an employee's work **requires** that he or she be available for work on-call during a period of off work time, on-call compensation shall accrue . . . ," this will not apply to those employees who are living in state-paid housing. Employees living in state-paid housing may be properly disciplined for failure to respond since equivalent on-call compensation is being given in the form of free rent/utilities/maintenance.

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- K. Employees currently living on the premises at their worksite in state-paid housing are not considered to be on-call. The purpose of adjacent arrangements is to actively monitor and/or oversee responsibilities bordering the living stations. Because the department is compensating employees who live in state-paid housing by providing free rent, utilities and maintenance services, on-call applicability is disregarded.
- L. Employees who are living in state-paid housing may only claim that time which they spend in answering an alarm, handling emergencies or any other actual work being performed on behalf of the state.
- M. Another element in determining whether or not an employee is on an on-call status depends upon whether the on-call time "is spent predominantly for the employer's benefit or for the employee's." If the employee can use his/her time freely, effectively and unrestricted for his/her own purposes, then the time is not compensable.
- N. If the employee is required to wear a pager and faces disciplinary action for failure to respond to calls, the employee must be given on-call compensation.
- O. If the employee merely has to leave word of where he/she can be reached, this requirement does not incur a restrictive use of that individual's free time, and, thus, is not considered on-call.

*Armour and Co. v. Wantock, 323 U.S. 126, 133 (1944); and Skidmore v. Swift and Co. 323 U.S. 134, 136 (1944).